

Hon. JOANNA SEYBERT
 U.S. District Judge
 U.S. District Court
 400 Federal Plaza
 Central Islip, N.Y. 11722

FILED
 IN CLERK'S OFFICE
 U.S. DISTRICT COURT E.D.N.Y.
 JUN 13 2016
 LONG ISLAND OFFICE

6/8/16

RE: HILL V. LAIRD, 06-CV-126 (JS) (AYS);
 MOTION TO AMEND COMPLAINT;

Dear Judge Seybert

Enclosed is the motion to amend the complaint, to add C.D. Hughes to the caption. In accordance with the Court's direction during the last tele-conference I have also cited the deposition page and quoted from it.

Based on the contents of the complaint, my deposition testimony and the N.Y. Daily News articles, C.D. Hughes and AUSA Cho had more than adequate "notice", of the law suit and that he was a defendant. The seriousness of the allegations should, I believe, inform the Court's decision in allowing the amendment. Thank^U ~~U~~

RECEIVED
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In Struggle
 Demetrius Hill
 Demetrius Hill
 #68433-053
 1151 Lewisburg
 PO BOX 1000
 Lewisburg Pa., 17039

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Shrink accused of practicing sexual healing with gang inmate rejects deal

BY JOHN MARZULLI
DAILY NEWS STAFF WRITER

Updated December 4th 2007, 7:01 PM

A sexy psychologist accused of having a jailhouse affair with a gang member strutted into court Friday in a miniskirt and go-go boots - and rejected a plea deal that would have avoided an embarrassing trial.

Magdalena Sanchez is charged with sexual abuse of the inmate and lying to federal investigators about the illicit affair that cost her a \$70,000-a-year job at the Metropolitan Detention Center in Brooklyn.

Sanchez, 35, who is married to an investment banker and lives at posh Trump Place on the upper West Side, faces up to five years in jail and loss of her psychology license, if convicted.

The terms of the plea deal were not disclosed, but by rejecting it, Sanchez showed she thinks the feds can't prove she gave improper therapy to troubled 29-year-old Bloods gang member Demetrius Hill.

The government's evidence includes recorded telephone conversations between the alleged lovers and prison logs. DNA swabs taken from Sanchez's office furniture tested negative for bodily fluids, court records show.

Sanchez and her lawyer huddled with prosecutor Sarah Coyne for 20 minutes before asking Judge Allyne Ross to set a trial date. Defense lawyer Loretta Lynch declined comment.

Hill is serving a 20-year sentence in federal prison on gun-related charges. He has sued the Bureau of Prisons, claiming he was sexually harassed by a male guard who demanded to be called "Peaches."

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JACK-MAN Dec 15, 2007 5:24:11 AM

Report Offensive Post

What's wrong with this picture? As I see it, you have an over paid ***** having sex with an "ape" like "bro" at the taxpayers expense. I don't mind anyone having a little fun but why am I being asked to pay for it? You know, my beloved, younger, bald-headed brother who lives in Charleston recently called me and asked me how I liked being back in New York. I suppose if I was black wearing a handkerchief around my face and doing time in a Brooklyn jail, getting laid by the shrink, I would probably like it better.

inmyopinion Dec 15, 2007 5:45:01 PM

Report Offensive Post

she probably knows how to ***** the system. And not psychologically...money is power...

duffout2 Dec 15, 2007 6:55:00 PM

Report Offensive Post

Jack-Man, maybe you should move to Finland. That way you can be around people you feel comfortable around. It's ignorance like yours that makes me ashamed of being white.

claibornes Dec 15, 2007 7:58:16 PM

Report Offensive Post

jack-man: you are an *****. you are on the wrong discussion board. there has to be one that's dedicated exclusively to racists... your comments will be appreciated more, there.

Now You're Crazy Dec 15, 2007 8:00:00 PM

Report Offensive Post

Jack-Man, are you really Rudee Julie Annie up here on the comment boards again? If so go back to your second cousin and start over again, you racist *****.

mike600 Dec 17, 2007 1:15:00 PM

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UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

Demetrius Hill, pro se,
Plaintiff,

v.

Paul Laird, Warden, et al.,
Defendants.

Motion To Amend or
CORRECT THE COMPLAINT
Fed. R. Civ. P. 15(a)(2), (c)(1)(C)
and (c)(2).

Comes now, Demetrius Hill, with this motion to amend or correct the complaint to reflect C.O. Hughes is a defendant in this civil rights litigation. And the fact that his name does not appear in the caption of the complaint, doesn't absolve him of liability, nor negate that he is named in the body of the complaint, (see, Complaint at point five).

Rule 15 (a)(2) states (in part):

"The Court should freely give leave [to amend]
when justice so requires..."

Rule 15 (C)(1)(C) and (C)(2) states

"When the United States or a United States officer is added as a defendant by amendment, the notice requirements of Rule 15 (C)(1)(C)(i) and (ii) are satisfied if, during the stated period, process was delivered or mailed to the United States or the United States attorney's designee, to the Attorney General of the United States or to the officer or agency."

Plaintiff would urge the Court to allow him to amend the Complaint to merely insert corrections officer (C.O.) Hughes (FNU) in the caption of the complaint. And that he be served with the complaint via certified mail by Aulsla Cho.

FACTS & MEMORANDUM OF LAW

IN SUPPORT OF AMENDMENT

Plaintiff notes at the outset the Federal Rules of Civil Procedure allows for amendments both "During and After Trial".

Therefore this request is not untimely, simply because the trial is due to begin on July 18th. Moreover, the Complaint clearly lays out a Constitutional tort against Officer Hughes,

Cf. Crawford v. Cuomo, 796 F.3d 252 (2nd Cir 2015):

"A corrections officer's intentional contact with an inmate's genitalia or other intimate area, which serves no penological purpose and is undertaken with the intent to gratify the officer's sexual desire or to humiliate the inmate, violates the Eighth Amendment. Moreover, we recognize that sexual abuse of prisoners, once passively accepted by society, deeply offends today's standards of decency."

Defendants can claim no prejudice from any amendment of the complaint as C.O. Hughes is named within the complaint and his sadistic abuse unambiguously stated, further:

- (a) C.O. Hughes received sufficient notice both in the complaint itself and via the New York Daily News which published several articles about the law suit and the allegations against Hughes specifically; (See exh. A)
- (b) C.O. Hughes colleagues were also sued including his direct supervisors e.g. Lt. Maldonado, Captain Schoentelder, Assoc. Warden Clemens, Warden Laird, C.O. Henderson, C.O. Wheelless, Case Manager McFarland, and D.H.O. Garcia;
- (c) The Asst. U.S. Attorney was served with a copy of the complaint and ~~knew~~ the allegations against Hughes;

Predicated on these facts, there is no question C.D.

Hughes had adequate notice of the litigation and that he was being sued "but for a mistake" in not placing his name in the caption of the complaint. See, Soto v. Brooklyn Corr. Fac., 80 F.3d 34, 36 (2d cir. 1996) (where Plaintiff sued the jail but not individual officers, the officers, who are presumed to know the law, would know that they would have been sued if they heard about the lawsuit.); Jackson v. Kotter, 541 F.3d 688, 696 (7th cir. 2008) (the Attorney General and U.S. Attorney received sufficient notice of the suit); Ayala Serrano v. Lebron Gonzales, 909 F.2d 9, 12 (1st cir. 1990) (since the defendants' superiors had been served and he had been present at the incident, the claim related back); Mosley v. Jablonsky, 209 F.R.D. 48, 51-53 (E.D.N.Y. 2002) (where Plaintiff sued municipal agencies but did not allege a municipal policy, failure to name individuals was a mistake of law, and amendment to add individual defendants related back).

Finally, as Plaintiff pointed out to the Court during the tele-Conference, Plaintiff specifically explained to a/u/s/a cho during the deposition that the failure to name C.O. Hughes in the caption of the complaint was a mistake and "in advertant":

"Q. Why do you mention Hughes in this case?

A. In the lawsuit?

Q. Yeah.

A. Because I meant to name him. And I was actually surprised that I didn't name him. And I think that the person I had type it up may have inadvertently missed his name.

Q. Maybe she couldn't read your handwriting.

A. Is it that bad?

Q. Sorry. "

See, deposition p.g. 332, (Dec. 23, 2009).

This excerpt from the deposition demonstrates that a/u/s/a cho had notice of the "mistake"

in not naming C.O. Hughes and can not claim to be surprised by the request to amend and as illustrated above C.O. Hughes was put on notice in numerous ways that he was going to be a defendant, including a New York Daily News article. See, Lacedra V. Donald W. Wyatt Detention Facility, 334 F. Supp. 2d 114, 130-32 (D.R.I. 2004) (where Plaintiff named the detention facility as defendant, made it clear he was trying to sue whoever was in charge, and the administration and the private medical provider had the same lawyer, the private provider had sufficient notice it would be sued and the claim related back).

As such Plaintiff requests the court allow him to amend the ~~caption~~ complaint to put C.O. Hughes in the caption. He should not be able to avoid liability for his sexual abuse do to a inadvertent mistake...

Dated: 6/3/16

CC: Nul/a cho
Mr. Kaiser of McDonald

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John Struggle
Demetrius Hill
DEMETRIUS HILL
68133-053
up p Lewisberg
PO Box 1008
Lewisberg, Pa., 17837

